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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/653,408 08/31/00 MERCIER

J 060429

EXAMINER
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MMC2/0330  
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ART UNIT	PAPER NUMBER
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2834  
DATE MAILED:

03/30/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/653,408

Applicant(s)

MERCIER ET AL.

Examiner

Julio C. Gonzalez

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the annular air passage disclosed in claim 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "8" has been used to designate both stator and tubular sleeve. Correction is required.
3. The drawings are objected to because it seems that the tubular sleeve only has a top and bottom opening. Is the drawing drawn to the right proportion? It seems if not enough wind could enter the tubular sleeve to rotate the propellers. Correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.  
  
In claim 3, applicant discloses an interference fit on the stator and generator. What is applicant stating by the word "interference fit"? Is it that the stator and generator "fit" inside the pod? How is there an "interference" between the pod and the stator?

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In claim 4, applicant discloses a lateral opening through the stator. Is the stator going to be exposed to the wind current? If so, how is it going to be protected from rain? If the stator is inside the pod then what advantages gives the openings of the stator if it is inside a closed pod?

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaufman.

Kaufman discloses a wind-power generator pod 12 constituted by a rigid fairing (see figure 1) in which a generator is disposed coupled to a propeller 36, wherein the rigid fairing of the pod is formed by the body of the generator in which a stator and rotor are mounted. Also, the pod is surrounded by a tubular sleeve forming an annular air passage along the pod 12. Moreover, the openings extend right through the stator (see figure 3) and the pod is mounted at the end of mast 22 so the pod can swivel.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman in view of Harner.

Kaufman discloses a wind-power generator pod 12 constituted by a rigid fairing (see figure 1) in which a generator is disposed coupled to a propeller 36, wherein the rigid fairing of the pod is formed by the body of the generator in which a stator and rotor are mounted. Also, the pod is surrounded by a tubular sleeve forming an annular air passage along the pod 12. Moreover, the openings extend right through the stator (see figure 3) and the pod is mounted at the end of mast 22 so the pod can swivel.

However, Kaufman does not disclose the use of a gearbox in the system.

On the other hand, Harner uses a gearbox for the purpose of increasing the rpm of the system and thus the output power of the generator by including a gearbox 20 coupled to the generator and gearbox being inside the rigid fairing 14.

It would have been obvious to one having ordinary skill in the art to design a pod, a rigid fairing with propellers and a generator as disclosed by Kaufman and to include a gearbox for the purpose of increasing the rpm of the system and thus the output power of the generator as disclosed by Harner.

**Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Jcg

March 27, 2001

  
NESTOR RAMIREZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800